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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,477	08/31/2001	Satoru Tange	SHC0144	1533

7590 03/08/2004

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EXAMINER

AFTERGUT, JEFF H

ART UNIT PAPER NUMBER

1733

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/944,477	<b>Applicant(s)</b> TANGE, SATORU	
	<b>Examiner</b> Jeff H. Aftergut	<b>Art Unit</b> 1733	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

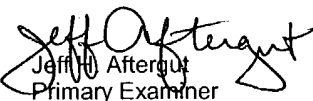
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-5.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

  
 Jeff H. Aftergut  
 Primary Examiner  
 Art Unit: 1733

Continuation of 5. does NOT place the application in condition for allowance because: as previously pointed out, the use of a non-woven web for the inelastic material was expressly suggested as useful in the process of Ness. The reference to Sisson was cited to show what kind of inelastic nonwoven web materials would have been useful in the operation of Ness. The applicant argues that the reference to Sisson does not envision the use of multiple layers of material wherein one layer is elastic and an adjacent layer is inelastic but elongatable, however such was clearly suggested by Figure 19. The applicant's arguments relating to Figure 6 of Sisson are not understood as reliance upon the same is not made by the examiner. It should additionally be noted that it is the inelastic but elongatable filaments in Sisson which cause the puckering of the finished assembly. The reference to Ness suggested that one skilled in the art at the time the invention was made would have partially stretched the elastic, assembled the nonwoven material to the partially stretched elastic and intermitently bonded the elastic to the nonwoven material and then completed the stretch of the assembly. After the final stretching operation the elastic was allowed to recover whereby an elastic laminate was formed having the disclosed puckers or gathers therein. The applicant is referred to the Office Action dated 3-18-03 for a complete discussion of Ness. To employ the continuous thermoplastic filament nonwoven materials of Sisson in making the nonwoven laminate of Ness would have been within the purview of the ordinary artisan. It is agreed that Sisson did not employ the partial stretch prior to the final stretch and prior to the lamination with the gatherable web, however it need not since the reference to Ness clearly envisioned the same. Additionally, applicant is advised that the claims at hand do NOT require the use of a nonwoven web for the elastic material as argued by applicant. In fact, claim 4 which defined the first web stated that the first web was either an elastically stretchable fabric or an elastically stretchable film of thermoplastic resin. Clearly, regarding this argument, the claims are not commensurate in scope with applicant's arguments.